

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

DOMINIC V. DiMODICA,)	
)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 05-10286-PBS/MEL
)	
ROBERT MURPHY, KATHLEEN)	
DENNEHY, and the MASSACHUSETTS)	
DEPARTMENT OF CORRECTION,)	
)	
Defendants.)	
)	

**JOINT MOTION TO RESCHEDULE THE
ALTERNATIVE DISPUTE RESOLUTION HEARING**

Plaintiff Dominic DiModica (“Plaintiff” or “Mr. DiModica”) and Defendants Robert Murphy, Kathleen Dennehy, and the Massachusetts Department of Correction (collectively “Defendants”), respectfully request that the Court reschedule the Alternative Dispute Resolution (“ADR”) hearing before Senior Judge Morris E. Lasker, from March 20, 2008 to May 2, 2008.

As grounds for this Motion, the parties state as follows:

1. Plaintiff is civilly committed as a sexually dangerous person and is housed at the Nemansket Correctional Center (“Treatment Center”) in Bridgewater, Massachusetts.
2. On February 4, 2005, Plaintiff filed a Complaint seeking prospective injunctive relief pursuant to the Americans with Disabilities Act (“ADA”) and damages and injunctive relief pursuant to 42 U.S.C. §1983 for alleged violations of his civil rights.
3. Appointed counsel filed an Amended Complaint on November 21, 2006, asking the Court to issue a declaratory judgment under Massachusetts General Law Chapter 123A, the ADA, and 42 U.S.C. §1983.

4. During the course of this litigation, Plaintiff's counsel retained the services of a forensic psychologist, Dr. Paul D. Zeisel ("Dr. Zeisel"), in order to perform a psychodiagnostic evaluation and prescribe a treatment plan for Mr. DiModica.

5. Dr. Zeisel reviewed extensive medical records, conferred with Plaintiff's counsel, and met with Mr. DiModica twice at the Treatment Center.

6. Dr. Zeisel's report titled "Brief Psychodiagnostic Evaluation" was filed with the Court on May 11, 2007.

7. On August 26, 2007, Dr. Zeisel submitted a second supplemental report outlining specific treatment proposals.

8. After reviewing Dr. Zeisel's second report, it was Defendants' opinion that the treatment plan did not provide sufficiently specific recommendations.

9. On September 13, 2007, counsel for Defendants provided Dr. Zeisel with updated records. In addition, a meeting was scheduled in order to allow Dr. Zeisel to meet with representatives from Forensic Health Services, Inc. ("FHS"), the vendor that provides sex offender treatment at the Treatment Center. Further, the parties agreed that FHS would conduct a separate assessment of Mr. DiModica. That evaluation was completed and provided to the Plaintiff's counsel in mid-December 2007.

10. During this timeframe, Dr. Zeisel went to Afghanistan to assist the United States Military. Dr. Zeisel is not expected to return to the United States until early April, 2008.

11. Although Plaintiff's counsel has been in contact with Dr. Zeisel while he has been abroad, Dr. Zeisel has been unable to provide a supplemental report which provides specific recommendations for Mr. DiModica's treatment plan and will not be able to do so until he returns to the United States.

12. In selecting alternative dates for the ADR hearing, Defendants' counsel was not available for the hearing until late April because of two separate jury trials, beginning on April 10, 2008 and April 22, 2008, respectively.

WHEREFORE the parties respectfully request that the Court reschedule the March 20, 2008, Alternative Dispute Resolution hearing to May 2, 2008.

Respectfully submitted,

DOMINIC V. DiMODICA,

By his attorneys,

/s/ Erin S. Martino

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Dated: February 25, 2008

ROBERT MURPHY, KATHLEEN
DENNEHY, and the MASSACHUSETTS
DEPARTMENT OF CORRECTION,

By their attorneys,

/s/ Mary P. Murray

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Dated: February 25, 2008